

HOUSE BILL No. 1186

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Unemployment insurance. Provides that any part of an unemployment insurance surcharge not used to pay interest on the advances made to the state from the federal unemployment trust fund must be credited against the total amount of benefits charged to the state's unemployment insurance trust fund before determining each employer's share of those benefits. Removes language that requires the extra surcharge amount be credited to each employer's experience account in proportion to the amount of the surcharge the employer paid. Removes language establishing a six year limitations period for the repayment of unemployment benefit overpayments received because of knowingly making a false statement or representation of a material fact or knowingly failing to disclose a material fact. Removes language establishing a three year limitations period for the repayment or unemployment benefit overpayments received because of a failure to report wages or the receipt of deductible income during a week in which benefits were received. Establishes a procedure for the department of workforce development (department) to require the employer to withhold amounts from the earnings of an individual for whom a benefit overpayment is established and to pay those amounts to the department to satisfy the overpayment, subject to the limitations that apply to garnishments. Provides that an individual may object to the withholding and request an administrative review of the department's action, including a hearing by an administrative law judge. Requires as a condition precedent to the payment of benefits in a year immediately following a year in which benefits were paid or following a period of disqualification for failure to apply for or accept
(Continued next page)

Effective: July 1, 2015.

Leonard

January 12, 2015, read first time and referred to Committee on Employment, Labor and Pensions.



Digest Continued

suitable work that an individual: (1) perform insured work; (2) earn remuneration in employment in at least each of eight weeks; and (3) earn remuneration at least equal to the product of the individual's weekly benefit amount multiplied by eight. Provides that, if an employer does not have a rule regarding attendance, an individual's unsatisfactory attendance is just cause for discharge, if good cause for the absences or tardiness is not established. (Currently, the individual must show good cause for the absences or tardiness.) Establishes that a crime committed using the Internet or another computer network may be prosecuted in any county: (1) from which or to which access to the Internet or another computer network was made; or (2) in which a computer, computer data, computer software, or computer network used to access the Internet or another computer network is located.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1186

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-10-4.5, AS ADDED BY P.L.2-2011,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 4.5. (a) This section applies to a calendar year that
4 begins after December 31, 2010, to an employer:
5 (1) that is subject to this article for wages paid during the calendar
6 year;
7 (2) whose contribution rate for the calendar year was determined
8 under this chapter, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3; and
9 (3) that:
10 (A) has been subject to this article during the preceding
11 thirty-six (36) consecutive calendar months; and
12 (B) has had a payroll in each of the three (3) preceding twelve
13 (12) month periods;
14 if, during the calendar year, the state is required to pay interest on the



1 advances made to the state from the federal unemployment account in
2 the federal unemployment trust fund under 42 U.S.C. 1321.

3 (b) In addition to the contributions determined under this chapter,
4 IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3 for calendar year 2011, each
5 employer shall pay an unemployment insurance surcharge that is equal
6 to thirteen percent (13%) of the employer's contribution determined
7 under this chapter, IC 22-4-11, IC 22-4-11.5, or IC 22-4-37-3 for the
8 calendar year.

9 (c) For a calendar year that begins after December 31, 2011, in
10 which employers are required to pay the unemployment insurance
11 surcharge described in subsection (b), the department shall determine,
12 not later than January 31, the surcharge percentage for that year based
13 on factors that include:

14 (1) the interest rate charged the state for the year determined
15 under 42 U.S.C. 1322(b); and

16 (2) the state's outstanding loan balance to the federal
17 unemployment account on January 1 of the year.

18 (d) The unemployment insurance surcharge described in subsection
19 (b) is payable to the department quarterly at the same time as employer
20 contributions are paid under section 1 of this chapter. Failure to pay the
21 unemployment insurance surcharge as specified in this section is
22 considered a delinquency under IC 22-4-11-2.

23 (e) The department:

24 (1) may use amounts received under this section to pay interest on
25 the advances made to the state from the federal unemployment
26 account in the federal unemployment trust fund under 42 U.S.C.
27 1321; and

28 (2) shall deposit any amounts received under this section and not
29 used for the purposes described in subdivision (1) in the
30 unemployment insurance benefit fund established under
31 IC 22-4-26.

32 (f) Amounts paid under this section and used as provided in
33 subsection (e)(1) do not affect and may not be charged to the
34 experience account of any employer. Amounts paid under this section
35 and used as provided in subsection (e)(2) must be credited to each
36 employer's experience account in proportion to the amount the
37 employer paid under this section during the preceding four (4) calendar
38 quarters. **subtracted from the total amount of benefits charged to
39 the fund under IC 22-4-11-1 in determining each employer's share
40 of those benefits under IC 22-4-11-2(e).**

41 SECTION 2. IC 22-4-11-2, AS AMENDED BY P.L.154-2013,
42 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2015]: Sec. 2. (a) Except as provided in IC 22-4-10-6 and
 2 IC 22-4-11.5, the department shall for each year determine the
 3 contribution rate applicable to each employer.

4 (b) The balance shall include contributions with respect to the
 5 period ending on the computation date and actually paid on or before
 6 July 31 immediately following the computation date and benefits
 7 actually paid on or before the computation date and shall also include
 8 any voluntary payments made in accordance with IC 22-4-10-5 or
 9 IC 22-4-10-5.5 (repealed):

10 (1) for each calendar year, an employer's rate shall be determined
 11 in accordance with the rate schedules in section 3.3 or 3.5 of this
 12 chapter; and

13 (2) for each calendar year, an employer's rate shall be two and
 14 five-tenths percent (2.5%), except as otherwise provided in
 15 subsection (g) or IC 22-4-37-3, unless:

16 (A) the employer has been subject to this article throughout
 17 the thirty-six (36) consecutive calendar months immediately
 18 preceding the computation date;

19 (B) there has been some annual payroll in each of the three (3)
 20 twelve (12) month periods immediately preceding the
 21 computation date; and

22 (C) the employer has properly filed all required contribution
 23 and wage reports, and all contributions, penalties, and interest
 24 due and owing by the employer or the employer's predecessors
 25 have been paid.

26 (c) In addition to the conditions and requirements set forth and
 27 provided in subsection (b)(2)(A), (b)(2)(B), and (b)(2)(C), an
 28 employer's rate is equal to the sum of the employer's contribution rate
 29 determined or estimated by the department under this article plus two
 30 percent (2%) unless all required contributions and wage reports have
 31 been filed within thirty-one (31) days following the computation date
 32 and all contributions, penalties, and interest due and owing by the
 33 employer or the employer's predecessor for periods before and
 34 including the computation date have been paid:

35 (1) within thirty-one (31) days following the computation date; or

36 (2) within ten (10) days after the department has given the
 37 employer a written notice by registered mail to the employer's last
 38 known address of:

39 (A) the delinquency; or

40 (B) failure to file the reports;

41 whichever is the later date. The board or the board's designee may
 42 waive the imposition of rates under this subsection if the board finds



1 the employer's failure to meet the deadlines was for excusable cause.
 2 The department shall give written notice to the employer before this
 3 additional condition or requirement shall apply. An employer's rate
 4 under this subsection may not exceed twelve percent (12%).

5 (d) However, if the employer is the state or a political subdivision
 6 of the state or any instrumentality of a state or a political subdivision,
 7 or any instrumentality which is wholly owned by the state and one (1)
 8 or more other states or political subdivisions, the employer may
 9 contribute at a rate of one and six-tenths percent (1.6%) until it has
 10 been subject to this article throughout the thirty-six (36) consecutive
 11 calendar months immediately preceding the computation date.

12 (e) On the computation date every employer who had taxable wages
 13 in the previous calendar year shall have the employer's experience
 14 account charged with the amount determined under the following
 15 formula:

16 **STEP ONE: Divide:**

17 (A) the employer's taxable wages for the preceding calendar
 18 year; by

19 (B) the total taxable wages for the preceding calendar year.

20 **STEP TWO: Subtract:**

21 **(A) the amount described in IC 22-4-10-4.5(e)(2), if any;**
 22 **from**

23 **(B) the total amount of benefits charged to the fund under**
 24 **section 1 of this chapter.**

25 ~~STEP TWO: THREE:~~ Multiply the quotient determined under
 26 STEP ONE by the ~~total amount of benefits charged to the fund~~
 27 ~~under section 1 of this chapter:~~ **difference determined under**
 28 **STEP TWO.**

29 (f) One (1) percentage point of the rate imposed under subsection
 30 (c), or the amount of the employer's payment that is attributable to the
 31 increase in the contribution rate, whichever is less, shall be imposed as
 32 a penalty that is due and shall be deposited upon collection into the
 33 special employment and training services fund established under
 34 IC 22-4-25-1. The remainder of the contributions paid by an employer
 35 pursuant to the maximum rate shall be:

36 (1) considered a contribution for the purposes of this article; and

37 (2) deposited in the unemployment insurance benefit fund
 38 established under IC 22-4-26.

39 (g) Except as otherwise provided in IC 22-4-37-3, this subsection,
 40 instead of subsection (b)(2), applies to an employer in the construction
 41 industry. As used in the subsection, "construction industry" means
 42 business establishments whose proper primary classification in the



1 current edition of the North American Industry Classification System
 2 Manual - United States, published by the National Technical
 3 Information Service of the United States Department of Commerce is
 4 23 (construction). For each calendar year beginning after December 31,
 5 2013, an employer's rate shall be equal to the lesser of four percent
 6 (4%) or the average of the contribution rates paid by all employers in
 7 the construction industry subject to this article during the twelve (12)
 8 months preceding the computation date, unless:

9 (1) the employer has been subject to this article throughout the
 10 thirty-six (36) consecutive calendar months immediately
 11 preceding the computation date;

12 (2) there has been some annual payroll in each of the three (3)
 13 twelve (12) month periods immediately preceding the
 14 computation date; and

15 (3) the employer has properly filed all required contribution and
 16 wage reports, and all contributions, penalties, and interest due and
 17 owing by the employer or the employer's predecessors have been
 18 paid.

19 SECTION 3. IC 22-4-13-1, AS AMENDED BY P.L.108-2006,
 20 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2015]: Sec. 1. (a) Whenever an individual receives benefits or
 22 extended benefits to which the individual is not entitled under:

23 (1) this article; or

24 (2) the unemployment insurance law of the United States;
 25 the department shall establish that an overpayment has occurred and
 26 establish the amount of the overpayment.

27 (b) An individual described in subsection (a) is liable to repay the
 28 established amount of the overpayment.

29 (c) Any individual who knowingly:

30 (1) makes, or causes to be made by another, a false statement or
 31 representation of a material fact knowing it to be false; or

32 (2) fails, or causes another to fail, to disclose a material fact; and
 33 as a result thereof has received any amount as benefits to which the
 34 individual is not entitled under this article, shall be liable to repay such
 35 amount, with interest at the rate of one-half percent (0.5%) per month,
 36 to the department for the unemployment insurance benefit fund or to
 37 have such amount deducted from any benefits otherwise payable to the
 38 individual under this article. ~~within the six (6) year period following~~
 39 ~~the later of the date the department establishes that an overpayment has~~
 40 ~~occurred or the date that the determination of an overpayment becomes~~
 41 ~~final following the exhaustion of all appeals.~~

42 (d) Any individual who ~~for any reason other than misrepresentation~~



1 or nondisclosure as specified in subsection (c); has received any
 2 amount as benefits to which the individual is not entitled under this
 3 article or fails to report wages received during a week in which
 4 benefits were paid or because of the subsequent receipt of income
 5 deductible from benefits which is allocable to the week or weeks for
 6 which such benefits were paid becomes and as a result is not entitled
 7 to such benefits under this article shall be liable to repay such amount
 8 to the department for the unemployment insurance benefit fund or to
 9 have such amount deducted from any benefits otherwise payable to the
 10 individual under this article. within the three (3) year period following
 11 the later of the date the department establishes that the overpayment
 12 occurred or the date that the determination that an overpayment
 13 occurred becomes final following the exhaustion of all appeals.

14 (e) An individual who for any reason not described in subsection
 15 (c) or (d) has received any amount as benefits to which the
 16 individual is not entitled under this article is liable to repay that
 17 amount to the department for the unemployment insurance benefit
 18 fund or to have that amount deducted from any benefits otherwise
 19 payable to the individual under this article within the three (3) year
 20 period following the later of the date the department established
 21 that the overpayment occurred or the date that the determination
 22 that an overpayment occurred becomes final following the
 23 exhaustion of all appeals.

24 (f) When benefits are paid to an individual who was eligible or
 25 qualified to receive such payments, but when such payments are made
 26 because of the failure of representatives or employees of the
 27 department to transmit or communicate to such individual notice of
 28 suitable work offered, through the department, to such individual by an
 29 employing unit, then and in such cases, the individual shall not be
 30 required to repay or refund amounts so received, but such payments
 31 shall be deemed to be benefits improperly paid.

32 (g) Where it is finally determined by a deputy, an administrative
 33 law judge, the review board, or a court of competent jurisdiction that
 34 an individual has received benefits to which the individual is not
 35 entitled under this article, the department shall relieve the affected
 36 employer's experience account of any benefit charges directly resulting
 37 from such overpayment, **except as provided under IC 22-4-11-1.5.**
 38 However, an employer's experience account will not be relieved of the
 39 charges resulting from an overpayment of benefits which has been
 40 created by a retroactive payment by such employer directly or
 41 indirectly to the claimant for a period during which the claimant
 42 claimed and was paid benefits unless the employer reports such



1 payment by the end of the calendar quarter following the calendar
 2 quarter in which the payment was made or unless and until the
 3 overpayment has been collected. Those employers electing to make
 4 payments in lieu of contributions shall not have their account relieved
 5 as the result of any overpayment unless and until such overpayment has
 6 been repaid to the unemployment insurance benefit fund.

7 ~~(g)~~ **(h)** Where any individual is liable to repay any amount to the
 8 department for the unemployment insurance benefit fund for the
 9 restitution of benefits to which the individual is not entitled under this
 10 article, the amount due may be collectible without interest, except as
 11 otherwise provided in subsection (c), by civil action in the name of the
 12 state of Indiana, on relation of the department, which remedy by civil
 13 action shall be in addition to all other existing remedies and to the
 14 methods for collection provided in this article.

15 ~~(h)~~ **(i)** Liability for repayment of benefits paid to an individual
 16 (other than an individual employed by an employer electing to make
 17 payments in lieu of contributions) for any week may be waived upon
 18 the request of the individual if:

- 19 (1) the benefits were received by the individual without fault of
 20 the individual;
- 21 (2) the benefits were the result of payments made:
 - 22 (A) during the pendency of an appeal before an administrative
 23 law judge or the review board under IC 22-4-17 under which
 24 the individual is determined to be ineligible for benefits; or
 - 25 (B) because of an error by the employer or the department; and
- 26 (3) repayment would cause economic hardship to the individual.

27 SECTION 4. IC 22-4-13-4, AS ADDED BY P.L.172-2011,
 28 SECTION 128, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) This section applies to an
 30 individual:

- 31 (1) for whom the department has established an overpayment by
 32 a final written determination under section ~~1(a)~~ **1(d)** or ~~1(b)~~ **1(e)**
 33 of this chapter; and
- 34 (2) whose overpayment amount that is due and payable equals or
 35 exceeds:
 - 36 (A) the individual's weekly benefit amount; multiplied by
 - 37 (B) four (4).

38 (b) Notwithstanding any other law and subject to subsection (c), an
 39 individual is entitled to repay the established amount of an
 40 overpayment over a period:

- 41 (1) beginning on the date the determination of the amount of the
 42 overpayment is final; and



(2) ending on a date not later than the date occurring thirty-six (36) months after the date specified in subdivision (1).

(c) An individual to whom this section applies may repay an overpayment over time as provided in subsection (b) not more than once during the individual's lifetime.

SECTION 5. IC 22-4-13-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5. (a) Whenever an overpayment:**

(1) is established in an individual's name under section 1(c) or 1(d) of this chapter; and

(2) becomes final following the exhaustion of all appeals; in addition to all other existing remedies or methods for collection provided by law, the commissioner may require each of the individual's employers to withhold amounts from the individual's earnings and pay those amounts to the department as provided under this section.

(b) The commissioner shall send a notice to an individual for whom the department has established an overpayment that has become final under this chapter by first class mail to the individual's last known address. The notice must include at least the following:

(1) The amount of the overpayment, including any interest charged by the department under this article.

(2) A statement of the commissioner's intention to notify each of the individual's current or future employers to withhold amounts from the individual's earnings until the overpayment is satisfied.

(3) A statement that the individual may object to the withholding and request an administrative review of the commissioner's action, including a hearing by an administrative law judge, not later than fifteen (15) days after the date of the notice. The statement must include the grounds and procedures for initiating an administrative review.

(c) After the period for an individual to request an administrative review under subsection (b) expires, or, if an administrative review is requested, after the administrative review is completed, the commissioner shall send a notice to withhold amounts from an individual's earnings to the individual's employer electronically or by first class mail. The notice must include at least the following:

(1) The individual's name, last known address, and Social Security number.



- 1 **(2) The total amount of the overpayment to be withheld,**
 2 **including any interest charged by the department under this**
 3 **article.**
- 4 **(3) A description of the employer's obligations after receiving**
 5 **a notice under this subsection.**
- 6 **(4) The limitations on withholding from an individual's**
 7 **earnings described in IC 24-4.5-5-105.**
- 8 **(5) A statement that an employer may not use an employee's**
 9 **being subject to withholding under this section as a negative**
 10 **factor in an employment action, including a hiring evaluation,**
 11 **a promotion, disciplinary action, or termination.**
- 12 **(6) A statement describing the penalties that may be assessed**
 13 **against the employer, if the employer wrongfully fails or**
 14 **refuses to withhold amounts from the individual's earnings**
 15 **under this section.**
- 16 **If an employer does not begin withholding amounts from an**
 17 **individual's earnings in accordance with subsection (d), the**
 18 **commissioner shall send a second notice under this subsection by**
 19 **certified mail, return receipt requested.**
- 20 **(d) An employer that receives a notice under subsection (c),**
 21 **shall do the following:**
- 22 **(1) Withhold an amount from the individual's earnings each**
 23 **pay period:**
- 24 **(A) determined in accordance with; and**
 25 **(B) subject to:**
- 26 **(i) the limitations of; and**
 27 **(ii) the priority established by;**
- 28 **IC 24-4.5-5-105 in the same manner as a garnishment. A**
 29 **withholding under this section is not an assignment of wages**
 30 **under IC 22-2-6.**
- 31 **(2) Begin withholding the amount determined under**
 32 **subdivision (1) from the individual's earnings with the first**
 33 **pay period that occurs not later than fourteen (14) days after**
 34 **the date the employer receives the notice sent by the**
 35 **commissioner under subsection (c).**
- 36 **(3) Remit the amount withheld to the commissioner by check**
 37 **or electronic payment (as defined by IC 5-27-2-3) not later**
 38 **than seven (7) days after the date of each regularly scheduled**
 39 **pay day. If an employer withholds amounts under this section**
 40 **for more than one (1) employee, the employer may consolidate**
 41 **the amounts withheld into one (1) payment to the**
 42 **commissioner and provide a list of the individuals for whom**



1 payment is made, including each individual's name, Social
2 Security number, and the amount withheld.

3 **(4) Continue the withholding under this subsection until the**
4 **commissioner sends written notification to the employer:**

5 **(A) to discontinue the withholding; or**

6 **(B) that the individual's overpayment has been paid in full.**

7 **(5) Provide written notification to the commissioner whenever**
8 **an individual subject to withholding terminates the**
9 **individual's employment, including the individual's last**
10 **known address and the name of the individual's new**
11 **employer, if known.**

12 **(e) An employer making withholdings under this section is**
13 **entitled to a fee to reimburse the employer for the costs of making**
14 **the withholding. The fee is three dollars (\$3) each time the**
15 **employer makes a withholding. However, the fee shall be borne**
16 **entirely by the individual whose earnings are subject to**
17 **withholding.**

18 **(f) An employer may not use the fact that an employee is subject**
19 **to withholding under this section as a negative factor in an**
20 **employment action, including a hiring evaluation, a promotion,**
21 **disciplinary action, or termination.**

22 **(g) If an employer does any of the following, the commissioner**
23 **may institute a civil action in a court of competent jurisdiction to**
24 **enforce this section:**

25 **(1) Wrongfully fails or refuses to withhold amounts from an**
26 **employer's earnings after receiving a notice from the**
27 **commissioner under subsection (c).**

28 **(2) Knowingly misrepresents an employee's earnings to the**
29 **commissioner.**

30 **(3) Uses the fact that an employee is subject to withholding**
31 **under this section as a negative factor in an employment**
32 **action.**

33 **(h) If the court in an action filed under subsection (g) finds that**
34 **the employer took any of the actions listed in subsection (g), the**
35 **court may:**

36 **(1) order the employer to comply with the requirements of**
37 **this section;**

38 **(2) order the employer to provide accurate information**
39 **concerning an employee's earnings;**

40 **(3) require the employer to pay the amount the employer**
41 **failed or refused to withhold from the employee's earnings; or**

42 **(4) order any equitable relief that is just and proper under the**



1 circumstances to redress the violation of or to enforce this
2 chapter.

3 (i) The commissioner may adopt rules under IC 4-22-2,
4 including emergency rules in the manner provided under
5 IC 4-22-2-37.1, to carry out the department's responsibilities under
6 this chapter.

7 SECTION 6. IC 22-4-14-5, AS AMENDED BY P.L.175-2009,
8 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2015]: Sec. 5. (a) As further conditions precedent to the
10 payment of benefits to an individual with respect to benefit periods
11 established on and after July 1, 1995, but before January 1, 2010:

12 (1) the individual must have established, after the last day of the
13 individual's last base period, if any, wage credits (as defined in
14 IC 22-4-4-3 and within the meaning of IC 22-4-22-3) equal to at
15 least one and one-quarter (1.25) times the wages paid to the
16 individual in the calendar quarter in which the individual's wages
17 were highest; and

18 (2) the individual must have established wage credits in the last
19 two (2) calendar quarters of the individual's base period in a total
20 amount of not less than one thousand six hundred fifty dollars
21 (\$1,650) and an aggregate in the four (4) calendar quarters of the
22 individual's base period of not less than two thousand seven
23 hundred fifty dollars (\$2,750).

24 (b) As a further condition precedent to the payment of benefits to an
25 individual with respect to a benefit year established on and after July
26 1, 1995, an insured worker may not receive benefits in a benefit year
27 unless after the beginning of the immediately preceding benefit year
28 during which the individual received benefits, the individual:

29 (1) performed insured work; and earned wages in employment
30 under ~~IC 22-4-8~~ in an amount not less than the individual's
31 weekly benefit amount established for the individual in the
32 preceding benefit year in each of eight (8) weeks;

33 (2) earned remuneration in employment in at least each of
34 eight (8) weeks; and

35 (3) earned remuneration equal to or exceeding the product of
36 the individual's weekly benefit amount multiplied by eight (8).

37 (c) As further conditions precedent to the payment of benefits to an
38 individual with respect to benefit periods established on and after
39 January 1, 2010:

40 (1) the individual must have established, after the last day of the
41 individual's last base period, if any, wage credits (as defined in
42 IC 22-4-4-3 and within the meaning of wages under IC 22-4-22-3)



1 equal to at least one and five-tenths (1.5) times the wages paid to
 2 the individual in the calendar quarter in which the individual's
 3 wages were highest; and

4 (2) the individual must have established wage credits in the last
 5 two (2) calendar quarters of the individual's base period in a total
 6 amount of not less than two thousand five hundred dollars
 7 (\$2,500) and a total amount in the four (4) calendar quarters of
 8 the individual's base period of not less than four thousand two
 9 hundred dollars (\$4,200).

10 SECTION 7. IC 22-4-15-1, AS AMENDED BY P.L.121-2014,
 11 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2015]: Sec. 1. (a) Regarding an individual's most recent
 13 separation from employment before filing an initial or additional claim
 14 for benefits, an individual who voluntarily left the employment without
 15 good cause in connection with the work or was discharged from the
 16 employment for just cause is ineligible for waiting period or benefit
 17 rights for the week in which the disqualifying separation occurred and
 18 until:

19 (1) the individual has earned remuneration in employment in at
 20 least eight (8) weeks; and

21 (2) the remuneration earned equals or exceeds the product of the
 22 weekly benefit amount multiplied by eight (8).

23 If the qualification amount has not been earned at the expiration of an
 24 individual's benefit period, the unearned amount shall be carried
 25 forward to an extended benefit period or to the benefit period of a
 26 subsequent claim.

27 (b) When it has been determined that an individual has been
 28 separated from employment under disqualifying conditions as outlined
 29 in this section, the maximum benefit amount of the individual's current
 30 claim, as initially determined, shall be reduced by an amount
 31 determined as follows:

32 (1) For the first separation from employment under disqualifying
 33 conditions, the maximum benefit amount of the individual's
 34 current claim is equal to the result of:

35 (A) the maximum benefit amount of the individual's current
 36 claim, as initially determined; multiplied by

37 (B) seventy-five percent (75%);

38 rounded (if not already a multiple of one dollar (\$1)) to the next
 39 higher dollar.

40 (2) For the second separation from employment under
 41 disqualifying conditions, the maximum benefit amount of the
 42 individual's current claim is equal to the result of:



- 1 (A) the maximum benefit amount of the individual's current
 2 claim determined under subdivision (1); multiplied by
 3 (B) eighty-five percent (85%);
 4 rounded (if not already a multiple of one dollar (\$1)) to the next
 5 higher dollar.
- 6 (3) For the third and any subsequent separation from employment
 7 under disqualifying conditions, the maximum benefit amount of
 8 the individual's current claim is equal to the result of:
- 9 (A) the maximum benefit amount of the individual's current
 10 claim determined under subdivision (2); multiplied by
 11 (B) ninety percent (90%);
 12 rounded (if not already a multiple of one dollar (\$1)) to the next
 13 higher dollar.
- 14 (c) The disqualifications provided in this section shall be subject to
 15 the following modifications:
- 16 (1) An individual shall not be subject to disqualification because
 17 of separation from the individual's employment if:
- 18 (A) the individual left to accept with another employer
 19 previously secured permanent full-time work which offered
 20 reasonable expectation of continued covered employment and
 21 betterment of wages or working conditions and thereafter was
 22 employed on said job;
- 23 (B) having been simultaneously employed by two (2)
 24 employers, the individual leaves one (1) such employer
 25 voluntarily without good cause in connection with the work
 26 but remains in employment with the second employer with a
 27 reasonable expectation of continued employment; or
- 28 (C) the individual left to accept recall made by a base period
 29 employer.
- 30 (2) An individual whose unemployment is the result of medically
 31 substantiated physical disability and who is involuntarily
 32 unemployed after having made reasonable efforts to maintain the
 33 employment relationship shall not be subject to disqualification
 34 under this section for such separation.
- 35 (3) An individual who left work to enter the armed forces of the
 36 United States shall not be subject to disqualification under this
 37 section for such leaving of work.
- 38 (4) An individual whose employment is terminated under the
 39 compulsory retirement provision of a collective bargaining
 40 agreement to which the employer is a party, or under any other
 41 plan, system, or program, public or private, providing for
 42 compulsory retirement and who is otherwise eligible shall not be



1 deemed to have left the individual's work voluntarily without
 2 good cause in connection with the work. However, if such
 3 individual subsequently becomes reemployed and thereafter
 4 voluntarily leaves work without good cause in connection with the
 5 work, the individual shall be deemed ineligible as outlined in this
 6 section.

7 (5) An otherwise eligible individual shall not be denied benefits
 8 for any week because the individual is in training approved under
 9 Section 236(a)(1) of the Trade Act of 1974, nor shall the
 10 individual be denied benefits by reason of leaving work to enter
 11 such training, provided the work left is not suitable employment,
 12 or because of the application to any week in training of provisions
 13 in this law (or any applicable federal unemployment
 14 compensation law), relating to availability for work, active search
 15 for work, or refusal to accept work. For purposes of this
 16 subdivision, the term "suitable employment" means with respect
 17 to an individual, work of a substantially equal or higher skill level
 18 than the individual's past adversely affected employment (as
 19 defined for purposes of the Trade Act of 1974), and wages for
 20 such work at not less than eighty percent (80%) of the individual's
 21 average weekly wage as determined for the purposes of the Trade
 22 Act of 1974.

23 (6) An individual is not subject to disqualification because of
 24 separation from the individual's employment if:

- 25 (A) the employment was outside the individual's labor market;
- 26 (B) the individual left to accept previously secured full-time
 27 work with an employer in the individual's labor market; and
- 28 (C) the individual actually became employed with the
 29 employer in the individual's labor market.

30 (7) An individual who, but for the voluntary separation to move
 31 to another labor market to join a spouse who had moved to that
 32 labor market, shall not be disqualified for that voluntary
 33 separation, if the individual is otherwise eligible for benefits.
 34 Benefits paid to the spouse whose eligibility is established under
 35 this subdivision shall not be charged against the employer from
 36 whom the spouse voluntarily separated.

37 (8) An individual shall not be subject to disqualification if the
 38 individual voluntarily left employment or was discharged due to
 39 circumstances directly caused by domestic or family violence (as
 40 defined in IC 31-9-2-42). An individual who may be entitled to
 41 benefits based on this modification may apply to the office of the
 42 attorney general under IC 5-26.5 to have an address designated by



1 the office of the attorney general to serve as the individual's
2 address for purposes of this article.

3 As used in this subsection, "labor market" means the area surrounding
4 an individual's permanent residence, outside which the individual
5 cannot reasonably commute on a daily basis. In determining whether
6 an individual can reasonably commute under this subdivision, the
7 department shall consider the nature of the individual's job.

8 (d) "Discharge for just cause" as used in this section is defined to
9 include but not be limited to:

10 (1) separation initiated by an employer for falsification of an
11 employment application to obtain employment through
12 subterfuge;

13 (2) knowing violation of a reasonable and uniformly enforced rule
14 of an employer, including a rule regarding attendance;

15 (3) if an employer does not have a rule regarding attendance, an
16 individual's unsatisfactory attendance, if ~~the individual cannot~~
17 ~~show~~ good cause for absences or tardiness **is not established;**

18 (4) damaging the employer's property through willful negligence;

19 (5) refusing to obey instructions;

20 (6) reporting to work under the influence of alcohol or drugs or
21 consuming alcohol or drugs on employer's premises during
22 working hours;

23 (7) conduct endangering safety of self or coworkers;

24 (8) incarceration in jail following conviction of a misdemeanor or
25 felony by a court of competent jurisdiction; or

26 (9) any breach of duty in connection with work which is
27 reasonably owed an employer by an employee.

28 (e) To verify that domestic or family violence has occurred, an
29 individual who applies for benefits under subsection (c)(8) shall
30 provide one (1) of the following:

31 (1) A report of a law enforcement agency (as defined in
32 IC 10-13-3-10).

33 (2) A protection order issued under IC 34-26-5.

34 (3) A foreign protection order (as defined in IC 34-6-2-48.5).

35 (4) An affidavit from a domestic violence service provider
36 verifying services provided to the individual by the domestic
37 violence service provider.

38 SECTION 8. IC 22-4-15-2, AS AMENDED BY P.L.121-2014,
39 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2015]: Sec. 2. (a) With respect to benefit periods established
41 on and after July 3, 1977, an individual is ineligible for waiting period
42 or benefit rights, or extended benefit rights, if the department finds that,



1 being totally, partially, or part-totally unemployed at the time when the
 2 work offer is effective or when the individual is directed to apply for
 3 work, the individual fails without good cause:

4 (1) to apply for available, suitable work when directed by the
 5 commissioner, the deputy, or an authorized representative of the
 6 department of workforce development or the United States
 7 training and employment service;

8 (2) to accept, at any time after the individual is notified of a
 9 separation, suitable work when found for and offered to the
 10 individual by the commissioner, the deputy, or an authorized
 11 representative of the department of workforce development or the
 12 United States training and employment service, or an employment
 13 unit; or

14 (3) to return to the individual's customary self-employment when
 15 directed by the commissioner or the deputy.

16 (b) With respect to benefit periods established on and after July 6,
 17 1980, the ineligibility shall continue for the week in which the failure
 18 occurs and until the individual earns:

19 (1) remuneration in employment equal to or exceeding the weekly
 20 benefit amount of the individual's claim in at least each of eight

21 (8) weeks; and

22 (2) remuneration equal to or exceeding the product of the
 23 individual's weekly benefit amount multiplied by eight (8).

24 If the qualification amount has not been earned at the expiration of an
 25 individual's benefit period, the unearned amount shall be carried
 26 forward to an extended benefit period or to the benefit period of a
 27 subsequent claim.

28 (c) With respect to extended benefit periods established on and after
 29 July 5, 1981, the ineligibility shall continue for the week in which the
 30 failure occurs and until the individual earns remuneration in
 31 employment equal to or exceeding the weekly benefit amount of the
 32 individual's claim in each of four (4) weeks.

33 (d) If an individual failed to apply for or accept suitable work as
 34 outlined in this section, the maximum benefit amount of the
 35 individual's current claim, as initially determined, shall be reduced by
 36 an amount determined as follows:

37 (1) For the first failure to apply for or accept suitable work, the
 38 maximum benefit amount of the individual's current claim is
 39 equal to the result of:

40 (A) the maximum benefit amount of the individual's current
 41 claim, as initially determined; multiplied by

42 (B) seventy-five percent (75%);



- 1 rounded (if not already a multiple of one dollar (\$1)) to the next
 2 higher dollar.
- 3 (2) For the second failure to apply for or accept suitable work, the
 4 maximum benefit amount of the individual's current claim is
 5 equal to the result of:
- 6 (A) the maximum benefit amount of the individual's current
 7 claim determined under subdivision (1); multiplied by
 8 (B) eighty-five percent (85%);
 9 rounded (if not already a multiple of one dollar (\$1)) to the next
 10 higher dollar.
- 11 (3) For the third and any subsequent failure to apply for or accept
 12 suitable work, the maximum benefit amount of the individual's
 13 current claim is equal to the result of:
- 14 (A) the maximum benefit amount of the individual's current
 15 claim determined under subdivision (2); multiplied by
 16 (B) ninety percent (90%);
 17 rounded (if not already a multiple of one dollar (\$1)) to the next
 18 higher dollar.
- 19 (e) In determining whether or not any such work is suitable for an
 20 individual, the department shall consider:
- 21 (1) the degree of risk involved to such individual's health, safety,
 22 and morals;
- 23 (2) the individual's physical fitness and prior training and
 24 experience;
- 25 (3) the individual's length of unemployment and prospects for
 26 securing local work in the individual's customary occupation; and
 27 (4) the distance of the available work from the individual's
 28 residence.
- 29 However, work under substantially the same terms and conditions
 30 under which the individual was employed by a base-period employer,
 31 which is within the individual's prior training and experience and
 32 physical capacity to perform, shall be considered to be suitable work
 33 unless the claimant has made a bona fide change in residence which
 34 makes such offered work unsuitable to the individual because of the
 35 distance involved. During the fifth through the eighth consecutive week
 36 of claiming benefits, work is not considered unsuitable solely because
 37 the work pays not less than ninety percent (90%) of the individual's
 38 prior weekly wage. After eight (8) consecutive weeks of claiming
 39 benefits, work is not considered unsuitable solely because the work
 40 pays not less than eighty percent (80%) of the individual's prior weekly
 41 wage. However, work is not considered suitable under this section if
 42 the work pays less than Indiana's minimum wage as determined under



1 IC 22-2-2. For an individual who is subject to section 1(c)(8) of this
 2 chapter, the determination of suitable work for the individual must
 3 reasonably accommodate the individual's need to address the physical,
 4 psychological, legal, and other effects of domestic or family violence.

5 (f) Notwithstanding any other provisions of this article, no work
 6 shall be considered suitable and benefits shall not be denied under this
 7 article to any otherwise eligible individual for refusing to accept new
 8 work under any of the following conditions:

9 (1) If the position offered is vacant due directly to a strike,
 10 lockout, or other labor dispute.

11 (2) If the remuneration, hours, or other conditions of the work
 12 offered are substantially less favorable to the individual than
 13 those prevailing for similar work in the locality.

14 (3) If as a condition of being employed the individual would be
 15 required to join a company union or to resign from or refrain from
 16 joining a bona fide labor organization.

17 (4) If as a condition of being employed the individual would be
 18 required to discontinue training into which the individual had
 19 entered with the approval of the department.

20 (g) Notwithstanding subsection (e), with respect to extended benefit
 21 periods established on and after July 5, 1981, "suitable work" means
 22 any work which is within an individual's capabilities. However, if the
 23 individual furnishes evidence satisfactory to the department that the
 24 individual's prospects for obtaining work in the individual's customary
 25 occupation within a reasonably short period are good, the
 26 determination of whether any work is suitable work shall be made as
 27 provided in subsection (e).

28 (h) With respect to extended benefit periods established on and after
 29 July 5, 1981, no work shall be considered suitable and extended
 30 benefits shall not be denied under this article to any otherwise eligible
 31 individual for refusing to accept new work under any of the following
 32 conditions:

33 (1) If the gross average weekly remuneration payable to the
 34 individual for the position would not exceed the sum of:

35 (A) the individual's average weekly benefit amount for the
 36 individual's benefit year; plus

37 (B) the amount (if any) of supplemental unemployment
 38 compensation benefits (as defined in Section 501(c)(17)(D) of
 39 the Internal Revenue Code) payable to the individual for such
 40 week.

41 (2) If the position was not offered to the individual in writing or
 42 was not listed with the department of workforce development.



1 (3) If such failure would not result in a denial of compensation
 2 under the provisions of this article to the extent that such
 3 provisions are not inconsistent with the applicable federal law.

4 (4) If the position pays wages less than the higher of:

5 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (the
 6 Fair Labor Standards Act of 1938), without regard to any
 7 exemption; or

8 (B) the state minimum wage (IC 22-2-2).

9 (i) The department of workforce development shall refer individuals
 10 eligible for extended benefits to any suitable work (as defined in
 11 subsection (g)) to which subsection (h) would not apply.

12 (j) An individual is considered to have refused an offer of suitable
 13 work under subsection (a) if an offer of work is withdrawn by an
 14 employer after an individual:

15 (1) tests positive for drugs after a drug test given on behalf of the
 16 prospective employer as a condition of an offer of employment;

17 or

18 (2) refuses, without good cause, to submit to a drug test required
 19 by the prospective employer as a condition of an offer of
 20 employment.

21 (k) The department's records concerning the results of a drug test
 22 described in subsection (j) may not be admitted against a defendant in
 23 a criminal proceeding.

24 SECTION 9. IC 22-4-35-2, AS AMENDED BY P.L.108-2006,
 25 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2015]: Sec. 2. All criminal actions for violations of this article
 27 shall be prosecuted by the prosecuting attorney, ~~of any county~~, or with
 28 the assistance of the attorney general or a United States attorney, if
 29 requested by the commissioner, **in any county**:

30 (1) in which the employer has a place of business; ~~or~~

31 (2) **in which** the alleged violator resides; ~~or~~

32 (3) **if an offense is committed using the Internet or another**
 33 **computer network (as defined in IC 35-43-2-3):**

34 (A) **from which or to which access to the Internet or**
 35 **another computer network was made; or**

36 (B) **in which a computer, computer data, computer**
 37 **software, or computer network that was used to access the**
 38 **Internet or another computer network is located.**

